

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

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CLARENCE M. WILLIS, et al.,

Plaintiffs,

vs.

CONRAD HAFEN, et al.

Defendants.

2:11-cv-00778-PMP-GWF

**ORDER**

On May 13, 2011, Plaintiffs filed a Complaint for Damages (Doc. #1) alleging multiple claims for relief against Defendants Conrad Hafen, Justice of the Peace of Las Vegas Township, Janice Jacobino, Esq. of the law firm of McCarthy & Holthus, and R. “Randy” Bingham, Deputy Constable of Las Vegas Township. Plaintiffs’ claims arise from court proceedings occurring in the Justice Court of Las Vegas Township, Clark County, Nevada, relating to an unlawful detainer action brought by the National Mortgage Association (“Fannie Mae”) to evict Plaintiffs from certain real property located in Clark County, Nevada, known as 4912 Canadian Drive, Las Vegas, Nevada. Plaintiffs contend that the Justice Court of Las Vegas Township had no jurisdiction over the case because exclusive jurisdiction to quiet titled real property is vested in this Court under 28 U.S.C. § 1346. Plaintiffs further contend that their eviction violated the Fourth

1 Amendment to the United States Constitution.

2 Before the Court for consideration are Motions to Dismiss (Docs. #6, #11) filed on  
3 behalf of Defendants Jacovino, Hafen and Bingham, respectively. The Court finds that  
4 Defendants' motions to dismiss must be granted.

5 Specifically, Defendant Jacovino is entitled to dismissal of Plaintiffs' complaint in  
6 accord with Rule 12(b)(6) of the Federal Rules of Civil Procedure because Plaintiffs have  
7 failed to state a claim upon which relief could be granted as to her. The unlawful detainer  
8 action initiated in state court had no bearing on title to the subject property because  
9 Plaintiffs had already been dispossessed of title through the foreclosure process. Hence,  
10 Fannie Mae was the record title holder of the subject property at the time the state court  
11 proceedings were instituted. Second, Plaintiffs can state no Fourth Amendment claim  
12 against Defendant Jacovino because Jacovino is not a state actor. Finally, to the extent  
13 Defendant Jacovino were deemed to be a state actor, Plaintiffs' claims would be barred  
14 by qualified immunity.

15 Plaintiffs' claims against Defendant Justice of the Peace Conrad Hafen are barred  
16 by the Doctrine of Absolute Judicial Immunity. As there is no cognizable basis for  
17 finding that Judge Hafen acted in excess of his jurisdiction. Similarly, Defendant  
18 Constable Bingham, who was acting in accord with an order of the Las Vegas Justice  
19 Court when he executed and served the Writ of Temporary Restitution on Plaintiffs, is  
20 entitled to quasi-judicial immunity, as argued in Defendants' Motion to Dismiss  
21 (Doc.#11).

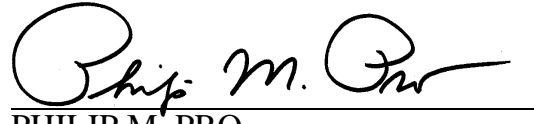
22 **IT IS THEREFORE ORDERED** that Defendants' Motions to Dismiss (Doc. #6,  
23 #11) are **GRANTED**, and that the Clerk of Court shall forthwith enter judgment  
24 accordingly.

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1       **IT IS FURTHER ORDERED** that and Lis Pendens filed against the subject  
2 property located at 4912 Canadian Drive, Las Vegas, Nevada, is hereby expunged.

3       DATED: June 28, 2011

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8       PHILIP M. PRO  
9       United States District Judge  
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